



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

KWAME RAOUL  
ATTORNEY GENERAL

October 30, 2019

*Via electronic mail*

Ms. Yael Grauer  
MuckRock News  
DEPT MR 75474  
411A Highland Avenue  
Somerville, Massachusetts 02144-2516  
75474-92147700@requests.muckrock.com

RE: FOIA Request for Review – 2019 PAC 59139

Dear Ms. Grauer:

This determination letter is issued pursuant to section 9.5(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(c) (West 2018)). For the reasons set forth below, the Public Access Bureau concludes that this Request for Review is unfounded.

On June 18, 2019, you submitted a FOIA request to the Illinois Department of Financial and Professional Regulation (Department) seeking copies of:

- all records and fields from the database of all licenses with license numbers, including but not limited to names, addresses, employers, license numbers, type of license, and information on license suspensions, revocations, probations, surrenders, postponements, and disciplinary actions
- all records and fields from a database of complaints on those licenses (with license numbers) (complainant zip code, name of massage therapist, who the complaint is against, address, employer, license number, type of license, zip code, and a summary of allegations), including any results of subsequent investigations \* \* \*

- any lookup tables, code sheets, dictionaries and other documents needed to interpret the data.<sup>[1]</sup>

On July 2, 2019, the Department responded that information responsive to the first part of your request was available on its website,<sup>2</sup> but it denied street addresses pursuant to sections 7(1)(b) and 7(1)(c) of FOIA (5 ILCS 140/7(1)(b), (c) (West 2018)).<sup>3</sup> The Department also denied the portion of your request concerning complaints pursuant to section 7(1)(a) of FOIA (5 ILCS 140/7(1)(a) (West 2018)), citing section 168 of the Massage Licensing Act (225 ILCS 57/168 (West 2018)), section 2105-117 of the Department of Professional Regulation Law (20 ILCS 2105/2105-117 (West 2018)), and an implementing regulation (2 Ill. Adm. Code §1326.220 (2018), former Part repealed at 39 Ill. Reg. 13367 and new Part adopted at 39 Ill. Reg. 13369, effective September 23, 2015). The Department further stated that it did not possess records responsive to the third part of your request. On August 23, 2019, you submitted the above-captioned Request for Review contesting the Department's response.

On September 3, 2019, an Assistant Attorney General in the Public Access Bureau e-mailed you, asking whether you agreed that the Department's online data portal contained the information at issue in the first part of your request. On October 16, 2019, you replied: "Yes, I do see that part of the first portion of my request is on the Department's website."<sup>4</sup> Section 8.5 of FOIA provides:

(a) Notwithstanding any provision of this Act to the contrary, a public body is not required to copy a public record that is published on the public body's website. The public body shall notify the requester that the public record is available online and direct the requester to the website where the record can be reasonably accessed.

(b) If the person requesting the public record is unable to reasonably access the record online after being directed to the website pursuant to subsection (a) of this Section, the requester may re-submit his or her request for the record stating his or her inability to reasonably access the record online, and the public

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<sup>1</sup>FOIA request from Yael Grauer, MuckRock News, to Whom it May Concern (June 18, 2019).

<sup>2</sup>State of Illinois Data Portal, Professional Licensing, <https://data.illinois.gov/dataset/professional-licensing> (last visited October 29, 2019).

<sup>3</sup>The Department's data portal lists the city, state, zip code, and county for all license holders.

<sup>4</sup>E-mail from MuckRock News to Office of the Illinois Attorney General, Public Access Counselor (August 23, 2019).

body shall make the requested record available for inspection or copying as provided in Section 3 of this Act.

Under the plain language of these provisions, a public body is not required to provide a requester with physical copies of records maintained on its website if the requester may reasonably access those records. Because you have acknowledged that the information responsive to the first part of your request is available in the Department's online data portal, your allegation that the Department responded improperly to that portion of your request is unfounded. To the extent that you seek the licensees' home addresses, they are exempt from disclosure as private information under section 7(1)(b) of FOIA.<sup>5</sup> Further, the Department's online data portal contains a data dictionary responsive to the third part of your request, resolving that issue.

As to the remaining portion of your request concerning complaints by members of the public against massage therapists, section 7(1)(a) of FOIA exempts from disclosure "[i]nformation specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law." Section 2105-117 of the Department of Professional Regulation Law—a provision of State law—provides, in relevant part:

Confidentiality. All information collected by the Department in the course of an examination or investigation of a licensee, registrant, or applicant, including, but not limited to, **any complaint against a licensee or registrant filed with the Department and information collected to investigate any such complaint, shall be maintained for the confidential use of the Department and shall not be disclosed.** The Department may not disclose the information to anyone other than law enforcement officials, other regulatory agencies that have an appropriate regulatory interest as determined by the Director, or a party presenting a lawful subpoena to the Department. Information and documents disclosed to a federal, State, county, or local law enforcement agency shall not be disclosed by the agency for any purpose to any other agency or person. A formal complaint filed against a licensee or registrant by the Department or any order issued by the Department against a licensee, registrant, or applicant shall be a public record, except as otherwise prohibited by law. (Emphasis added.)

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<sup>5</sup>Section 2(c-5) of FOIA (5 ILCS 140/2(c-5) (West 2018)) defines "private information" as including home addresses.

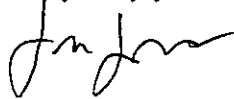
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Correspondingly, the implementing regulation provides that the Department shall not disclose, pursuant to FOIA, complaints received by its Division of Professional Regulation against licensees or unlicensed persons or entities. 2 Ill. Adm. Code §1326.220(a) (2018), former Part repealed at 39 Ill. Reg. 13367 and new Part adopted at 39 Ill. Reg. 13369, effective September 23, 2015.

Under the plain language of these provisions, the requested complaint information is specifically prohibited from disclosure to members of the public absent a lawful subpoena. Therefore, the information responsive to the second part of your request is exempt from disclosure under section 7(1)(a) of FOIA.

For the reasons explained above, the Public Access Bureau concludes that this Request for Review is unfounded. This letter serves to close this matter. If you have any questions, please contact me at the Chicago address listed on the first page of this letter, jjones@atg.state.il.us, or 312-814-8413.

Very truly yours,



JOSHUA M. JONES  
Deputy Bureau Chief  
Public Access Bureau

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cc: *Via electronic mail*  
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